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16 UNITED STATES DISTRICT COURT
17 DISTRICT OF NEVADA
18

19 STATE OF NEVADA, DEPARTMENT OF)
20 CONSERVATION AND NATURAL)
21 RESOURCES, DIVISION OF)
22 ENVIRONMENTAL PROTECTION, BUREAU)
23 OF CORRECTIVE ACTIONS,)

24 Plaintiff,)

25 v.)

26 MARYLAND SQUARE, LLC, et al.,)

27 Defendants/Third Party Plaintiffs.)
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AND ALL RELATED ACTIONS.

Case No. 3:09-CV-231

**MOTION TO DISMISS THIRD PARTY
COMPLAINT PURSUANT TO FRCP 12(b)(6)**

1 Third Party Defendant Hoyt Corporation ("Hoyt") hereby moves this Court for dismissal
2 of the Third Party Complaint ("TPC") filed by Third Party Plaintiffs Maryland Square, LLC; the
3 Herman Kishner Trust, d/b/a Maryland Square Shopping Center; Irwin Kishner; Jerry Ingle;
4 Bank of America, as Trustees for the Herman Kishner Trust; Maryland Square, LLC; and the
5 Clark County School District (collectively, "Maryland Square Parties").

6 This Motion is brought under Fed.R.Civ.P. 12(b)(6) on the basis that the TPC fails to
7 state a claim upon which relief can be granted, and is based upon the accompanying
8 memorandum of points and authorities and such oral argument as the Court may require.

9 Hoyt requests a hearing on this Motion as oral argument may assist the Court in
10 understanding the complex issues associated with its Motion. As noted in the accompanying
11 memorandum, several of the cases cited therein were recently decided and it may serve
12 judicial economy to hear oral argument.

13 Counsel for Hoyt has complied with LR IA 10-2.

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16 Dated: June 25, 2010

By: /s/ Brian H. Phinney
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